

Securities and Exchange Commission of Pakistan
Enforcement and Monitoring Division
7th Floor, NIC Building, Jinnah Avenue, Blue Area, Islamabad

Before Rashid Sadiq, Executive Director

In the matter of

M/S APPOLLO TEXTILE MILLS LIMITED

No. and date of notice

EMD/233/86/2002
dated June 11, 2002

Date of hearing

June 26, 2002

Present

Mr. Shahab-ud-Din Siddiqui,
Financial Controller
Mr. Saeed Nasir,
Revenue Advisory Services
Mr. Ather Hussain Medina,
Nominee Director, NIT

Order

The facts leading to this case, briefly stated, are that M/S Appollo Textile Mills Limited (the "Company") was required to prepare and transmit to its members half yearly accounts for the period ended March 31, 2002 by May 31, 2002 as required under Clause (a) of Sub-section (1) of Section 245 of the Companies Ordinance, 1984 (the "Ordinance"). The Company was also required to file with the Registrar and the Commission three copies of such half yearly accounts simultaneously with the transmission to its members under Clause (b) of Sub-section (1) of Section 245 of the Ordinance.

2. The Company failed to transmit the half yearly accounts for the period ended March 31, 2002 to the members and file the same with the Commission. A notice dated June 11, 2002 was, therefore, served on the directors including the Chief Executive of the Company calling upon them as to why penalty as provided in Sub-section (3) of Section 245 of the Ordinance may not

be imposed upon them for the aforesaid contravention. In order to provide an opportunity of personal hearing, the case was fixed on June 26, 2002. On the date of hearing, Mr. Shahab-ud-Din Siddiqui, Financial Controller of the Company and Mr. Saeed Nasir of Revenue Advisory Services, consultant of the Company appeared on behalf of the directors including Chief Executive of the Company except Nominee Directors of NIT, who were represented by Mr. Ather Hussain Medina.

3. At the time of hearing, it was averred that the delay in circulation of half yearly accounts was due to non-availability of annual audited accounts of the Company. It was also indicated that due to qualifications in the auditors' report, the audit could not be finalized as anticipated and the auditors delivered their audit report on the annual account of the Company on June 04, 2002. Resultantly the half yearly accounts could not be prepared and transmitted to shareholders within stipulated time. It was undertaken that the half yearly accounts of the Company would be prepared and circulated by August 15, 2002. It was also assured to observe the statutory requirements in future. Mr. Ather Hussain Medina, Nominee Director NIT, stated that the nominee directors have been advising the management of the Company to comply with the mandatory requirements of circulation of half yearly accounts. In this regard, he also placed on record some letters asking the Company to comply with statutory requirements.

4. There is no denying the fact that circulation of half yearly accounts is a requirement known to all the directors/Chief Executive and other stake holders of a listed company. The delay in finalization of the annual accounts is not a justifiable excuse for delaying the circulation and filing of half yearly accounts, which is a separate mandatory requirement under Section 245 of the Ordinance. There is also no requirement that half yearly accounts should be audited. Thus, there could be hardly any justification for delaying the preparation and circulation of half yearly un-audited accounts, which in my view, could be prepared soon after the close of first half of the year of accounts of the Company. The companies, therefore, must organize themselves in such a way that the half yearly un-audited accounts are presented soon after the close of first half of their year of accounts. Under the circumstances, I do not find any merit in the contentions of the Company for delaying the preparation and circulation of half-yearly accounts. The default, therefore, is considered deliberate and intentional, which attracts the provisions of Sub-section (3) of Section 245 of the Ordinance.

5. For the foregoing reasons, the Chief executive and directors of the Company have made themselves liable for the penalties provided under Sub-section (3) of Section 245 of the Ordinance. I am, however, giving them another chance as they have undertaken that they will ensure strict compliance of Section 245 in future. I, therefore, take a lenient view of the default and, instead of imposing a maximum fine of Rs.100,000 on every director including the Chief Executive of the Company, hereby impose a fine of Rs. 25,000 (Rupees twenty five thousand) on the Chief Executive only under Sub-section (3) of Section 245 read with Section 476 of the Ordinance. I hope that the Chief Executive and the directors would react positively and ensure the compliance of law in future. The Chief Executive is also directed to make immediately arrangements for circulation of half yearly accounts.

6. The Chief Executive of the Company is hereby directed to deposit the fine amounting to Rs 25,000/- in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the date of this Order and furnish receipted challan to the Securities and Exchange Commission of Pakistan.

RASHID SADIQ

Executive Director (Enforcement & Monitoring)

Announced
June 28, 2002
ISLAMABAD